Attorney's Docket: 1998CH017
Serial No.: 09/744,784
Art Unit 1751

REMARKS

The Office Action mailed September 29, 2004, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

Claim Status

Claims 12-37 are pending in this Application. By this Amendment, claim 37 has been amended, to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. No new claims have been added. The claims under consideration are, therefore, believed to include claims 12-37.

Claim Objections Under 37 CFR 1.75(c)

Claim 37 stands objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 37 has been amended to overcome the objection. Applicant respectfully contends that the objection to Claim 37 has been overcome.

Claim Rejections Under 35 USC § 103(a)

Claims 12-37 stand rejected under 35 USC § 103(a) as being unpatentable over Kayane et al. (US 4,548,612) in view of Yatake (US 5,560,770). This rejection is respectfully overcome.

In support of its rejection, the Office states (beginning at the bottom of page 2):

> Kayane (US '612) teaches an aqueous reactive dye composition comprising a halo-triazine compounds of the formula (2) having β-sulfatoethylsulfonyl and chloro substituent groups...

The Office interprets Kayane to suggest a reactive dye composition in aqueous form as it makes reference to column 17, example 15 , and columns 17 and 18, examples 16-20 in this and previous Office Actions. Applicant can not agree. Kayane teaches the inability to store an aqueous reactive dye composition as discussed at column 1, lines 10-41 wherein it is stated:

> Reactive dyes are used for dyeing fiber materials usually after having been stored for several days to several months, during which fiber-reactive groups appended to the dye molecule are easy to be hydrolyzed due to water contained in a dye product and air. Therefore, there are often caused troubles such that the reactive dyes are deteriorated in their dyeability, when used for dyeing fiber materials. As well known, the hydrolysis degree of the fiber-reactive groups varies depending on the kind of fiber-reactive groups and pH value. For example, reactive dyes having a halogenotriazinyl group are easy to be hydrolyzed within an acid region, whereas stable within a neutral or alkali region, and reactive dyes having a so-called vinylsulfone type reactive group are easy to be hydrolyzed within an alkali region, whereas stable within an acid region. For the reasons described above, in order to improve the storage stability of this kind of the reactive dyes, the reactive dyes having a halogenotriazinyl group are incorporated with a buffer exhibiting a pH value of from about 8 to 10, and the so called vinylsulfone type reactive dyes are incorporated with a buffer exhibiting a pH value of from about 3 to 4.
>
> *However, in the case of difunctional reactive dyes having both the halogenotriazinyl group, and the so-called vinylsulfone type reactive group, which have been largely used for dyeing fiber materials because of their excellent dye performances, it is hard to improve the storage stability on the basis of the above prior knowledge, because the halogenotriazinyl group and the vinylsulfone type reactive group are easy to be hydrolyzed within both the acid and alkali regions, respectively.* (emphasis added)

An examination of Kayane reveals that in no instance does it disclose, teach, or suggest an aqueous solution reactive dye composition, wherein the reactive dye composition is storable in an aqueous state. It is clear that the composition disclosed by Kayane, when stored, is dry, not in an aqueous state, as proffered by the Office. Kayane discloses a drying step throughout the specification and examples in order to obtain his desired composition. See Column 3, line 60 through Column 4, line 11, and Examples 1 through 12. Indeed, in rebutting Applicants'

previous arguments th office makes reference to these example, but, respectfully stated, fails to acknowledge that such compositions were then dried. Applicants do not dry the desired aqueous composition of the present invention.

Kayane's only reference to an aqueous solution, is the solution made solely for determining the pH of the composition and not for long term storage of the reactive dyes. See Column 3, lines 31-35:

> The dye composition in accordance with the present invention is prepared so as to show a pH ranging from 3.5 through 7.5, preferably from 4.5 through 6.5, *when dissolved in water of 20 times as much as the weight of the dye composition.* (emphasis added)

No where does Kayane teach the long term storage of the pH test solution.

The remaining examples, Examples 13-23 (the application examples), describe use of one of the dry compositions of Examples 1-12 in the formation of a dye bath, printing paste or impregnating liquor and its subsequent application to a substrate. Thus, it is abundantly clear that the dye composition intended for storage by Kayane is not an aqueous solution, but a dry composition. Yatake does not supply the requisite disclosure necessary to arrive at a conclusion of obviousnessas Yatake is silent with respect to storage stability.

As disclosed in the specification, *inter alia*, on page 1, lines 27-29, and page 7, lines 1-18, the present invention overcomes a problem heretofore encountered in the industry by providing an aqueous reactive dye composition which is storage stable in aqueous form. As stated on page 7, lines 1-5, an important aspect of this invention is the combination of at least one reactive dye and the biuret and, optionally, a further additive (F) which does not decrease the storage stability of the composition.

In order to sustain a *prima facie* case of obviousness, the prior art must teach or suggest all of the limitations of the claimed invention. MPEP § 2143.03. Neither Kayane or Yatake teach, disclose, or suggest an aqueous solution reactive dye composition which is storable. Indeed, the primary reference teaches away from that claimed by Applicants, as the Kayane reference is directed to dry reactive dye

compositions. For this reason alone, it is Applicants' courteous position that the invention can not be made obvious by any combination of Kayane and Yatake.

Furthermore, it is beyond contention that a *prima facie* case of obviousness requires the prior art to provide both motivation and a reasonable expectation of success for one with ordinary skill in the art to modify the references in a manner which arrives at the claimed invention. For the Office to establish a prima *facie* case of obviousness over a reference combination, it is incumbent upon the Office to show that the references themselves provide some teaching whereby an applicant's invention would have been obvious to an artisan of ordinary skill. Importantly, "the mere fact that references can be combined or modified does not render the resulting combination obvious unless the prior art also suggests desirability of the combination". MPEP § 2143.01. Thus, the inquiry is not whether each element existed in the prior art, but whether the prior art made obvious the invention as a whole for which patentability is claimed.

It is Applicants' respectful assertion that the prior art fails to provide the requisite motivation. There is nothing in the disclosure of Kayane or Yatake which would motivate an artisan of ordinary skill to make the combination as proposed by the Office. One with ordinary skill, attempting to overcome the problem of unstable aqueous reactive dye compositions, would not be motivated to import the biuret, as taught by Yatake, in the dry composition as taught by Kayane. Simply put, the references are completely silent as to the combination of a reactive dye and biuret being able to produce a storage stable aqueous solution reactive dye composition. Therefore, one with ordinary skill in the art having a knowledge of these references would find no motivation to place the biuret from Yatake in the composition of Kayane and yield Applicants' claimed invention.

Moreover, obviousness does not lie against the claimed invention because the prior art fails to provide a reasonable expectation of success for the Office's proposed combination. The ordinary artisan would not expect success as Kayane requires the composition to be dried. Therefore, unless the artisan is to abandon the

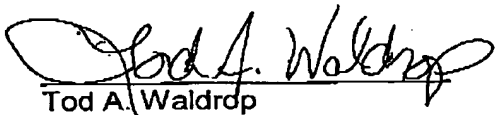
express teachings of Kayane, i.e. drying, such artisan could not, absent impermissible hindsight, have any reasonable expectation of success that the combination as claimed would yield a storage stable aqueous solution composition.

For all the forgoing reasons, it is Applicants' contention that the claimed invention is not made obvious by any combination of Kayane and Yatake. Applicants, therefore, courteously solicit reconsideration and withdrawal of the rejection.

As the total number of claims does not exceed the number of claims originally paid for, no fee is believed due. However, if an additional fee is required, the Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the agent for Applicants at the telephone number provided below.

Respectfully submitted,



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